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developments in the International Port Security Program, changes to NVIC 06-03 have become necessary.

5. DISCUSSION. The USCG will enforce the new requirements of SOLAS Chapter XI-2, the ISPS Code, and the maritime security regulations authorized by MTSA for all foreign vessels subject to SOLAS and all foreign commercial vessels greater than 100 GRT that enter U.S. ports. In order to provide a comprehensive framework for these maritime security standards, these standards are seamlessly integrated into the existing port State control program. The procedures and policies offered herein provide expanded program guidelines for targeting vessels for examination, conducting vessel examinations, controlling substandard vessels, and tracking and reporting results of vessel examinations.

6. IMPLEMENTATION.

- a. Ship security performance is paramount to maritime security implementation. A ship is required to have an approved security plan in place and the provisions of the plan should be fully implemented. Plan implementation, including applicable requirements of ISPS Code Part A, taking into consideration the relevant guidance of ISPS Code Part B, should be apparent to the port state control officer (PSCO).
- b. The PSCO should determine if a vessel is complying with its plan and other maritime security requirements through observation, asking questions, and reviewing security records. If there are clear grounds that the vessel does not meet the applicable maritime security requirements, the COTP or OCMi should impose appropriate control and/or enforcement actions. These may include inspection, delay, or detention of the ship; restriction of ship operation; expulsion of the ship from port; and/or lesser administrative or corrective measures.
- c. If the only means to verify or rectify the non-compliance is to review the relevant portions of the ship security plan, the PSCO must obtain permission from the Master or the flag State as described in Paragraph 9.8.1 of ISPS Code, Part A before reviewing the plan. Further guidance on determining whether a vessel meets applicable maritime security requirements is provided in Paragraph C.4 of Enclosure (3) to this NVIC. If, during inspection of the ship, the COTP or OCMi concludes, for example, the provisions of the approved ship security plan related to screening of personnel are satisfactory, but the ship and its crew are not implementing these provisions, the COTP or OCMi shall take appropriate control and enforcement actions. Furthermore, if the COTP or OCMi concludes that provisions of the ship security plan relating to screening of personnel do not meet the requirements of ISPS Code Part A, taking into consideration the recommendations of ISPS Code Part B, the COTP or OCMi should also take appropriate control and enforcement actions.
- d. The implementation policy herein includes four key pieces: Risk-based targeting; reporting and notification; boarding procedures; and control and enforcement procedures. Risk-based targeting, discussed in Enclosure (1), focuses on three issues: vessel security risk; risk of vessel noncompliance with international and national maritime security standards; and risk of vessel noncompliance with international and maritime safety and environmental standards. Enclosure (2) addresses tracking and reporting the results of vessel examinations. Boarding procedures, provided in Enclosure (3), discuss law enforcement security boardings of foreign vessels and

safety and security compliance examinations for convention and non-convention foreign vessels. Enclosure (4) provides control and enforcement procedures for substandard vessels.

- e. To meet the responsibilities discussed herein, Coast Guard Marine Safety and Operations communities need to work in concert with industry, State and local governments, and volunteer agencies to focus on preventing vessel security and safety-related incidents. In addition, units should take note of the following when applying the guidance of this circular.
- f. The Maritime Law Enforcement Manual (MLEM), COMDTINST M16247.1 (series) should be used in tandem with this NVIC when performing security boardings. The MLEM gives policy guidance for execution of the USCG's law enforcement mission and provisions related to armed security boardings, and should be adhered to accordingly.
- g. The Marine Safety Manual (MSM), Volume II (Materiel Inspection), COMDTINST M16000.7 (Series) should be used in tandem with this circular when performing compliance examinations. When the MSM guidance conflicts with the guidance provided herein, the guidance in this circular takes precedence over the MSM. In cases of apparent policy conflict between this NVIC and the MSM, Commandant (G-MOC) should be notified. It should be noted that the guidance in the MSM pertaining to port State control is scheduled for update and the guidance herein will be included in this update.

## 7. INFORMATION SECURITY.

- a. Security assessments, security plans and their amendments contain information that, if released to the general public, would compromise the safety or security of the port and its users. This information is known as sensitive security information (SSI), and the Transportation Security Administration (TSA) governs SSI through 49 CFR 1520, titled "Protection of Sensitive Security Information." These regulations allow the Coast Guard to maintain national security by sharing unclassified information with various vessel and facility personnel without releasing SSI to the public. Vessel and facility owners and operators must follow procedures stated in the 49 CFR 1520 for the marking, storing, distributing and destroying of SSI material, which includes many documents that discuss screening processes and detection procedures.
- b. Under these regulations, only persons with a "need to know," as defined in 49 CFR 1520.11, will have access to security assessments, plans and amendments. Vessel and facility owners or operators must determine which of their employees need to know which provisions of the security plans and assessments, then the owners and operators must restrict dissemination of these documents accordingly. To ensure that access is restricted to only authorized personnel, SSI material will not be disclosed under the Freedom of Information Act (FOIA) under almost all circumstances.
- c. When SSI is released to unauthorized persons, a report must be filed with the Department of Homeland Security. Such unauthorized release is grounds for a civil penalty and other enforcement or corrective action.

8. DISCLAIMER. While the guidance contained in this document may assist the industry, the public, the USCG, and other Federal and State regulators in applying statutory and regulatory requirements, this guidance is not a substitute for applicable legal requirements, nor is it in itself a rule. Thus, it is not intended to nor does it impose legally binding requirements on any party, including the USCG, other Federal agencies, the States, or the regulated community.
9. CHANGES. This NVIC will be posted on the web at [www.uscg.mil/hq/g-m/nvic/index00.htm](http://www.uscg.mil/hq/g-m/nvic/index00.htm). Changes to this circular will be issued as necessary. Time-sensitive amendments will be issued as “urgent change” messages by ALCOAST and posted on the website for the benefit of industry, pending their inclusion to the next change to this circular. Suggestions for improvement of this circular should be submitted in writing to Commandant (G-MOC).
10. FORMS AVAILABILITY. Forms can be retrieved at <http://cgweb.comdt.uscg.mil/g-mp/g-mp.htm> and reproduced locally.



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- Encl: (1) Risk-Based Targeting for all Vessels (CH-1)  
(2) Reporting and Notification Procedures (CH-1)  
(3) Boarding Procedures (CH-1)  
(4) PSC Enforcement and Control Procedures and:  
    Appendix A Examples of Detainable Deficiencies for Security and Safety (CH-1)  
    Appendix B International Port Security Program and Country Advisories (CH-1)  
(5) Glossary (CH-1)  
(6) CG-840 “Foreign Vessel Exam Book for MTSA/ISPS Code Compliance” (CH-1)

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<sup>i</sup> COTP –Exercises control of vessel’s movement and operation through the issuance of a COTP Order pursuant to two authorities, the PWSA and the Magnuson Act. That authority may be (and often is) a necessary adjunct to the OCMI’s exercise of his traditional port state control (PSC) role, as described below. However, if the PSC measure that is sought to be imposed involves an order to the vessel to move or operate in a particular fashion for the safety or security of the vessel, the port, or the navigable waters of the United States, because that authority is based upon the PWSA or Magnuson Act, it is exercised by the COTP, not the OCMI.

<sup>ii</sup> OCMI - Has the technical and process expertise to carry out PSC examinations and measures, including the necessary flag state notifications and official documentation of detention and/or intervention actions. OCMI authority is also being exercised if the source of that authority is grounded in the vessel inspection and certification laws and regulations of Title 46 CFR. If and to the extent the OCMI must make a judgment about compliance with SOLAS safety, equipment, construction, or manning requirements, and the control measures that are necessary to achieve compliance do not involve an order requiring the ship to move, or not to move, the OCMI may exercise such control without using the authority of the COTP.